

Image

 **Sterne Kessler
Goldstein Fox**

ATTORNEYS AT LAW



Robert Greene Sterne
Edward J. Kessler
Jorge A. Goldstein
David K.S. Cornwell
Robert W. Esmond
Tracy-Gene G. Durkin
Michele A. Cimbalà
Michael B. Ray
Robert E. Sokohl
Eric K. Steffe
Michael Q. Lee
Steven R. Ludwig
John M. Covert
Linda E. Alcorn
Robert C. Millonig
Lawrence B. Bugaisky
Donald J. Featherstone
Michael V. Messinger

Judith U. Kim
Timothy J. Shea, Jr.
Patrick E. Garrett
Heidi L. Kraus
Edward W. Yee
Albert L. Ferro*
Donald R. Banowitz
Peter A. Jackman
Molly A. McCall
Teresa U. Medler
Jeffrey S. Weaver
Kendrick P. Patterson
Vincent L. Capuano
Eldora Ellison Floyd
Thomas C. Fiala
Brian J. Del Buono
Virgil Lee Beaton
Kimberly N. Reddick

Theodore A. Wood
Elizabeth J. Haanes
Joseph S. Ostroff
Frank R. Cottingham
Christine M. Lhullier
Rae Lynn Pongaman
Jane Shershenovich*
Lawrence J. Carroll*
George S. Bardmesser
Daniel A. Klein*
Jason D. Eisenberg
Michael D. Specht
Andrea J. Kamage
Tracy L. Muller
LuAnne M. Yuricek*
John J. Figueroa
Ann E. Summerfield
Tiera S. Coston*

Aric W. Ledford*

Registered Patent Agents*

Karen R. Markowicz
Nancy J. Leith
Helene C. Carlson
Gaby L. Longworth
Matthew J. Dowd
Aaron L. Schwartz
Mary B. Tung
Katrina Y. Pei Quach
Bryan L. Skelton
Robert A. Schwartzman
Timothy A. Doyle
Jennifer R. Mahalingappa
Teresa A. Colella
Jeffrey S. Lundgren

Victoria S. Rutherford
Eric D. Hayes

Of Counsel
Kenneth C. Bass III
Evan R. Smith

* Admitted only in Maryland
* Admitted only in Virginia
* Practice Limited to
Federal Agencies

February 23, 2004

WRITER'S DIRECT NUMBER:

(202) 772-8641

INTERNET ADDRESS:

HCARLSON@SKGF.COM

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Art Unit 1644

Re: U.S. Utility Patent Application
Application No. 09/458,299; Filed: December 10, 1999
For: **Inducing Cellular Immune Responses to HER2/neu Using Peptide and
Nucleic Acid Compositions**
Inventors: **FIKES et al.**
Our Ref: 2060.0140000/HCC/J-H

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Reply to Restriction Requirement; and
2. Return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Helene C. Carlson
Agent for Applicants
Registration No. 47,473

Enclosures

231653v1



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

FIKES *et al.*

Appl. No.: 09/458,299

Filed: December 10, 1999

For: **Inducing Cellular Immune
Responses to HER2/neu Using
Peptide and Nucleic Acid
Compositions**

Confirmation No.: 8698

Art Unit: 1644

Examiner: DIBRINO, Marianne

Atty. Docket: 2060.0140000/HCC/J-H

Reply to Requirement for Election of Species

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated January 22, 2004 requesting several elections of species, Applicants hereby provisionally elect:

(a) isolated peptides that are 9 amino acids in length (claims 44, 62 and 79 are readable thereon),

(b) one or more different peptides, i.e., a heteropolymer (claims 51, 71 and 88 are readable thereon),

(c) a composition further comprising one or more different peptides (claims 54-58, 75 and 92 are readable thereon),

(d) one or more different peptides form a fusion peptide (claims 55 and 57 are readable thereon)

(e) the peptide KVFGLAFV (SEQ ID NO:4233) (as previously elected) (claims 59-75 are readable thereon).

Claim 41 is generic. Applicants assert the right to claim additional species in the event that a generic claim thereto is found to be allowable in accordance with 37 C.F.R. § 1.141(a).

All of the above-listed elections are made without traverse.

The above-listed elections of species are made without prejudice to or disclaimer of the other claims or inventions disclosed. Consideration and allowance of all pending claims is respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Helene C. Carlson
Agent for Applicants
Registration No. 47,473

Date: February 23, 2004

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600